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S E C R E T SECTION 01 OF 03 BAGHDAD 004991

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SUBJECT: FOURTH AND FIFTH DAYS OF AD DUJAYL TRIAL

Classified By: DCM David Satterfield for reasons 1.4
(B) and (D).

1. (U) SUMMARY: The fourth day of the Ad Dujayl trial occurred on December 6, 2005. Five witnesses provided testimony in open court although each had their identities shielded. The two morning witnesses testified in a closed session. Thus, no media was present, and no recording was made of their statements. The two females who testified in the morning and the three witnesses who testified in the afternoon utilized voice altering technology and provided details about torture, murder, and detention which was inflicted upon them and their families in response to the failed assassination attempt against Saddam Hussein in Ad Dujayl. At the conclusion of Day 4, Saddam lashed out at the court, shouting that he would not participate in the next day's proceedings. The morning session of the fifth day (December 7) was canceled as the Tribunal and defense counsel argued about the impact of Saddam Hussein's refusal to appear. Saddam Hussein ultimately appeared in a closed door session and apologized to the Tribunal for his outburst, but he exercised his right not to appear before the Tribunal for testimony and was returned to his cell. On the afternoon of Day 5, the Tribunal took testimony from two additional Ad Dujayl victims. END SUMMARY.

Morning Trial Proceedings - Day 4 - December 6

2. (U) On December 6, 2005, Chief Judge Rizgar Amin commenced taking witness testimony from individuals who would not agree to testify publicly. The first witness (a woman) was identified as Witness A. Prior to her offering testimony to the Court, however, Chief Prosecutor Ja'afar al-Musawi requested that the Court sanction the defendants for interrupting witnesses during the preceding day's testimony. Barzan al-Tikriti interjected and called Prosecutor Ja'afar his brother and noted that they were both members of the Ba'ath Party. Shortly thereafter Witness A began to testify from behind a screen. It was intended that neither her voice be heard publicly nor her testimony recorded.

3. (S) Despite these precautions, members of the public heard parts of Witness A's testimony through the glass windows in the public viewing gallery. She stated that she was tortured repeatedly and that her honor was violated. She testified that she was held in Abu Ghraib prison and was forced to make needles so that she could sew clothes for her children. She testified that her younger brother was beaten regularly and that a woman went into labor and lost her baby because nobody was permitted to assist with the birth. She testified that she was beaten and electrocuted and that she lost her property, her future, and everything as a result of the actions which the former regime took against her and her family.

4. (U) A second witness identified as Witness B began to testify after Witness A concluded. Although she initially began speaking from behind the witness screen and through a voice distortion machine, this was halted when defense lawyers objected that they could not understand Witness B's testimony. As a result, Judge Rizgar directed the witness to testify in open court without the aid of a screen or voice distortion. The public and media galleries were closed for this session; so no public reporting of her testimony occurred.

Afternoon Trial Proceedings - Day 4

5. (U) At the lunch recess, IHT officials resolved technical problems with the voice distortion system. Thus, the testimony of Witness C, which commenced immediately after lunch, occurred from behind a screened booth and with the aid of voice distortion. Witness C stated that he, his parents, and infant sister were detained at the headquarters of Iraq's intelligence services. He said he was held for 17-19

days before the intelligence services transported him and many others to a detention camp in the desert of Al-Samawah. At this point in the testimony, Barzan Al-Tikriti interjected and said that the Iraqi intelligence services had no responsibility for the events in Ad Dujayl. Barzan Al-Tikriti claimed that the Public Security Department of Iraq had jurisdiction over individuals in Ad Dujayl.

¶6. (U) Saddam Hussein began to cross examine Witness C by disparaging his psychological state. He also claimed that the testimony of Witness C was fabricated and designed to undermine the noble history of Iraq. Saddam demanded that Witness C identify those individuals who tortured him at the intelligence headquarters. Judge Rizgar interrupted Saddam Hussein repeatedly, to which Saddam replied that Iraq was living under the "canopy of U.S. democracy and its lackeys."

¶7. (U) Witness D testified with the aid of voice distortion technology and from behind a screen. Witness D stated that he had been a soldier fighting in the Iran-Iraq war and that he was on leave in Ad Dujayl at the time of the failed assassination attempt. He also stated that he did not see Saddam Hussein, Barzan Al-Tikriti or their motorcade in Ad Dujayl at the time of the failed assassination attempt. Witness D testified that security and police personnel beat many Ad Dujayl residents after the attempt and that his son was arrested and disappeared.

¶8. (U) Saddam Hussein and Barzan Al-Tikriti both cross-examined Witness D. They demanded to know whether Witness D had a death certificate for his son. Barzan Al-Tikriti also stated that any such certificate (if produced) was likely forged.

¶9. (U) Witness E testified that he and seven to ten individuals were sent to the headquarters of Iraq's intelligence services after the attack on Ad Dujayl. He testified that he saw three people killed during an aerial attack on Ad Dujayl. Additionally, the witness claimed that his three sons were killed. The witness testified further that he was detained for four years thereafter in Abu Ghraib and Layya prison.

¶10. (U) The chief defense attorney for Saddam Hussein, Kaleel al-Dolami, challenged the testimony as fabricated. Barzan al-Tikriti asserted that the state compensated all individuals who lost property (i.e. orchards) in Ad Dujayl. Barzan al-Tikriti also argued that the witness's testimony did not make sense because he never saw the bodies of his three sons.

¶11. (U) At the conclusion of the day's events, Saddam Hussein demanded that Judge Rizgar postpone trial for at least one day so that he could rest. He stated that he had been wearing the same underwear for three days and that he had reached his limit. When Judge Rizgar informed Saddam Hussein that the trial would resume, Saddam complained that he did not have clean underwear, shouted that he would not participate in the next day's proceeding, and told the court to "go to hell."

¶12. (S) COMMENT: When Task Force 134 transported the defendants to the courthouse from the detention facility, they instructed the defendants to bring clothing for three to four days of proceedings. However, Saddam Hussein refused to bring more than one set of clothes. Moreover, during the lunch break, defense counsel requested that the court continue to hear testimony as long as was necessary - even requesting that the court remain in session through the night - so that the lawyers could keep appointments they had made for the following day. END COMMENT.

Morning Trial Proceedings - Day 5 - December 7

¶13. (S) The morning testimonial session on Day 5 was delayed by five hours as the Tribunal decided how to handle the fact that Saddam Hussein was refusing to participate. Saddam stated that he would participate if the IHT delayed trial for one day. Defense counsel told the Court that, because the newspapers had published Saddam's statement(saying that he would not attend the trial), Saddam felt bound to remain in his cell. The court refused to accommodate the request and demanded that Saddam's defense attorneys convince him to attend the testimonial session. When this failed, the Trial Chamber agreed to bring Saddam before the court in a closed door session.

¶14. (S) The IHT brought Saddam Hussein into the court shortly after lunch. The full complement of trial judges, prosecutors, and defense counsel was present. The public galleries and media areas were empty. At this hearing, Saddam apologized to Judge Rizgar for insulting the court. He also stated that he did not wish to participate in the afternoon's proceedings. Judge Rizgar accepted this apology and informed Saddam that Iraqi law provided him the opportunity to refrain from participating in his defense. Saddam exercised this right and was escorted to his cell.

¶15. (U) Witness F testified (without Saddam Hussein in the court) about his 70 days of detention in the headquarters of Iraq's intelligence service. He stated that he was beaten repeatedly and that Barzan al-Tikriti was present at one point during these beatings. He was then detained for a year and a half in Abu Ghraib prison. He stated further that, while in Abu Ghraib, he was deprived of sleep, starved, and forced to stand for days on end.

¶16. (U) Witness G testified about his detention in the headquarters of the Iraqi intelligence service and Abu Ghraib. He also stated that he was sent to a desert detention facility in Al-Samawah and held for years. At one point during this testimony, Barzan al-Tikriti interrupted Witness G and equated his own current treatment while detained to the treatment of the victims of Ad Dujayl. Barzan stated that the food he was served "should not be given to beggars" and that he was given six of the "worst cigarettes in the world" per day. Taha Yassin Ramadan also spoke out. He stated that, if the events at Ad Dujayl did occur, they had nothing to do with him. Mr. Ramadan denied having ever visited Dujayl.

¶17. (U) At the conclusion of the proceedings, the court adjourned until after the December 15 elections. Defense counsel requested the adjournment date of December 21, and the court accepted this request.

¶18. (S) Saddam Hussein's defense attorneys, including Ramsey Clark, met with the trial chamber in the robing room immediately after the end of the session. Ramsey Clark submitted a motion concerning defense counsel security and formally requested that the court intervene with the USG to ensure their security. He also asserted that the lawyers would reject all of the offers of security that had been made by the RCLO and instead would propose their own plan. Judge Rizgar stated that he could not make promises on matters beyond his purview but that he would speak with the RCLO about the matter.

¶19. (S) COMMENT: IHT International Adviser Howard Morrison has reviewed the motion and concluded that it is "amateurish" and "rubbish." RCLO also has reviewed it and found numerous factual inaccuracies. The IHT has requested that Mr. Morrison draft a response to the motion, which he doing with RCLO assistance. END COMMENT.

Next Steps -----

¶20. (S) During the proceedings this week, at least 9 additional witnesses contacted the court requesting the right to testify, including an individual claiming to be the driver for Barzan Al-Tikriti. These individuals had not previously given statements to the investigative judge; so they cannot testify until they have given formal statements to the Prosecution Office and the statements are disclosed to defense counsel. Once this is done, the IHT will accept their testimony. The RCLO and the IHT are in the process of speaking to these witnesses now. In addition, the RCLO and the IHT are sending investigators to Ad Dujayl to speak with previous complainants so that they will be able to testify when the court reconvenes on December 21.
KHALILZAD